

ALBERTO SOTO-LARA  
Reg. No. 04801-070 A/B  
F.C.I. Elkton  
P.O. Box 10  
Lisbon, OH 44432

2004 MAR -8 P 12:49



March 6, 2004

Clerk of the Court  
United States District Court  
District of Massachusetts  
1 Courthouse Way Room 2500  
Boston, MA 02210

04 10498 WGY  
MAGISTRATE JUDGE *collings*

Dear Clerk:

Enclosed for filing, please find the required number of copies of my Motion filed under Title 28 U.S.C. §2255.

Thank you in advance for your assistance and cooperation with the instant matter.

Sincerely,

*Alberto Soto-Lara*  
ALBERTO SOTO-LARA

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District
Name of Movant <b>ALBERTO SOTO-LARA</b>	Prisoner No. <b>04801-070</b>	Case No. <b>00-10385 (WGY)</b>
Place of Confinement <b>F.C.I. ELKTON, UNIT A/B, P.O. Box 10, Lisbon, Ohio 44432-1119</b>		

UNITED STATES OF AMERICA

V. ALBERTO SOTO-LARA

(name under which convicted)

MOTION

04 10498 WGY

1. Name and location of court which entered the judgment of conviction under attack United States District Court, District of Massachusetts.MAGISTRATE JUDGE RBC2. Date of judgment of conviction February 27, 20023. Length of sentence 168 month to be served concurrent with No. Cr. 00-003L4. Nature of offense involved (all counts) Title 21 U.S.C. §841 & Title 21 U.S.C. §846.

5. What was your plea? (Check one)

- (a) Not guilty ☐  
 (b) Guilty ☒  
 (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A6. If you pleaded not guilty, what kind of trial did you have? (Check one) N/A

- (a) Jury ☐  
 (b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

AO 243 (Rev. 5/85)

9. If you did appeal, answer the following:

- (a) Name of court United States Court of Appeals for the First Circuit.
- (b) Result The Case was affirmed.
- (c) Date of result March 17, 2003

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?  
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information: N/A

- (a) (1) Name of court N/A
- (2) Nature of proceeding \_\_\_\_\_
- (3) Grounds raised \_\_\_\_\_
- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐
- (5) Result \_\_\_\_\_
- (6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

- (1) Name of court \_\_\_\_\_
- (2) Nature of proceeding \_\_\_\_\_
- (3) Grounds raised \_\_\_\_\_

(5) Result

(6) Date of result

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(b) Conviction obtained by use of coerced confession.

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Counsel was ineffective for failing to argue the breach of plea agreement by the government. See attached memorandum of law.

Supporting FACTS (state *briefly* without citing cases or law): The Petitioner Complains that his sentence was improperly enhanced with 4 level based in Petitioner's leadership role in the offense, because the plea agreement states that only a 2 level enhancement would be imposed if the Petitioner plea guilty of the charged offense.

B. Ground two: Counsel was ineffective for failing to argue that the Petitioner indictments were multiplicitous in violation of the Double Jeopardy Clause.

Supporting FACTS (state *briefly* without citing cases or law): The Petitioner complains that he was improperly convicted under two separate indictments

(1:00-10385-WGY; No. Cr. 00.003L) in violation of the Double Jeopardy Clause, because both indictments charged him with violation of offenses that were part of the same general course of criminal conduct. Involving cocaine sales in

Massachusetts and Rhode Island.

C. Ground three: NONE

Supporting FACTS (state *briefly* without citing cases or law): N/A

D. Ground four: NONE

Supporting FACTS (state *briefly* without citing cases or law):

N/A

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

A & B. Petitioner realized of the ineffective Assistance  
after his interation with other lawyer or/and other inmate

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
 Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Raymond E. Gillespie

875 Massachusetts Avenue, Suite 32, Cambridge, MA 02139

(b) At arraignment and plea Raymond E. Gillespie

(c) At trial Petitioner plead guilty. Trial was not necessary.

(d) At sentencing Raymond E. Gillespie

(e) On appeal Raymond E. Gillespie

The same address above

(f) In any post-conviction proceeding At this Point Petitioner is  
acting Pro Se.

(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence: N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?


Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
 Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

03-06-04  
 (date)

  
 Signature of Movant